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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 CURTIS J. WILLIAMS,

11 Plaintiff,

No. CIV S-05-0164 JAM EFB P

12 vs.

13 R. W. SANDHAM, et al.,

14 Defendants.

FINDINGS AND RECOMMENDATIONS

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16 Plaintiff is a state prisoner proceeding without counsel in an action brought under 42  
17 U.S.C. § 1983. In mid-2006, defendants filed motions for summary judgment. Dckt. No. 53, 55.  
18 By order dated March 29, 2007, the court granted those motions in part, but denied them as to  
19 plaintiff's claim that defendants violated his Eighth Amendment rights by denying him Muracel  
20 1% eye drops and, later, Muracel 1.28% eye drops. Dckt. No. 103. Defendant Steen then filed a  
21 Motion for Leave to File a Renewed Motion for Summary Judgment, as well as the renewed  
22 motion itself. Dckt. No. 114. The motion concerned the single claim surviving the first motion  
23 for summary judgment – plaintiff's claim regarding the Muracel eye drops.

24 Because the court had already ruled on defendant Steen's request for summary judgment  
25 of the Muracel eye drops claim, it construed his motion for leave to file a renewed motion as a  
26 motion for reconsideration of the court's March 29, 2007 order under Local Rule 230(j). So

1 construed, the court denied the motion. Dckt. Nos. 122, 124.

2 In their joint pretrial statement, all remaining defendants (Steen, Sandham, Mangis, and  
3 Rohlfing) once again seek summary judgment on plaintiff's remaining claim regarding the  
4 Muracel eye drops. Dckt. No. 140. As defendants have already filed a motion for summary  
5 judgment on this claim, which was denied, the court once again construes this motion as a  
6 motion for reconsideration of the court's March 29, 2007 order under Rule 230(j). For the  
7 reasons stated in the findings and recommendations of August 12, 2010 and adopted by order  
8 dated September 30, 2010, the undersigned recommends that this successive attempt at summary  
9 adjudication of the Muracel eye drops claim be denied.

10 Accordingly, IT IS RECOMMENDED that defendants' August 2, 2011 request for the  
11 entry of summary judgment in their favor at the pretrial conference be denied.

12 These findings and recommendations are submitted to the United States District Judge  
13 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
14 after being served with these findings and recommendations, any party may file written objections  
15 with the court and serve a copy on all parties. Such a document should be captioned "Objections  
16 to Magistrate Judge's Findings and Recommendations." Failure to file objections within the  
17 specified time may waive the right to appeal the District Court's order. *Turner v. Duncan*, 158  
18 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

19 DATED: November 15, 2011.

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21 EDMUND F. BRENNAN  
22 UNITED STATES MAGISTRATE JUDGE  
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